

**First Action Interview Pilot Program
Pre-Interview Communication**

Application No.

10/568,975

Applicant(s)

HENRY ET AL.

Examiner

J. CHRISTOPHER BALL

Art Unit

1795

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-The MAILING OR NOTIFICATION DATE of this communication appears on the cover sheet with the correspondence address -

THE SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **ONE MONTH OR THIRTY (30) DAYS**, WHICHEVER IS LONGER, FROM THE MAILING OR NOTIFICATION DATE OF THIS COMMUNICATION.

This time period for reply is extendable under 37 CFR 1.136(a) for only ONE additional MONTH.

This communication constitutes notice under 37 CFR 1.136(a)(1)(i).

Applicant must, within the time period for reply, file: (1) A letter requesting not to have a first action interview; (2) A reply under 37 CFR 1.111 waiving the first action interview and First Action Interview Office Action; or (3) An Applicant Initiated Interview Request Form (PTOL-413A) electronically via EFS-Web, accompanied by a proposed amendment or arguments, and schedule the interview within 2 months from the filing of the request. A failure to respond to this communication will be treated as a request not to have an interview. If applicant waives the First Action Interview Office Action, the instant Pre-Interview Communication is deemed the first Office Action on the Merits. The next subsequent Office action may be made final if appropriate. See MPEP 706.07(a).

Disposition of Claims

- 3) ☒ Claim(s) 1, 3-38, 43-45, 53, 54, 65, 66, 70, 73, 74, 76-80, and 85-87 is/are pending in the application.
3a) Of the above claim(s) 1 and 3-36 is/are withdrawn from consideration.
- 4) ☐ Claim(s) _____ is/are allowed.
- 5) ☒ Claim(s) 37, 38, 43-45, 53, 54, 65, 66, 70, 73, 74, 76-80, & 85-87 is/are rejected.
- 6) ☐ Claim(s) _____ is/are objected to.
- 7) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 8) ☐ The specification is objected to by the Examiner.
- 9) ☒ The drawing(s) filed on 21 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 10) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 11) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

Contact Information

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Examiner's Typical Work Schedule: Monday through Thursday, 9 am to 5 pm Eastern

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Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/21/2006, 01/31/2008, 01/21/2010.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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Notification of Rejection(s) and/or Objection(s)

#	Claim(s)	Reference(s) (if applicable)	Rejection Statutory Basis	Brief Explanation of Rejection
1	37,38,43-45,53,54,65,66,73,74+	A	Prov. Statutory Double Patent	Cited claims are verbatim repeated in patent appl. serial no. 11/932977. Additionally, this applies to claim 77-80, and instant claims 85-87 are repeated as claims 81-83 in the copending.
2	37,38,43-45,53,54,65,66,70,73+	CHOW & MATHIES (IDS)	103(a)	Re claim 37, Chow discloses a method of using a microfluidic device, wherein the device comprises the recited elements (C14:29-31; Fig 2; 304, Fig 3A; 318, Fig 3A; 324, Fig 3A; C15: 26-31; 342, Fig 3C). Chow is flexible to the type of detection (C15:61 - C16:18).
3	65, 66, & 70		112, 2nd para.	claim 65 recites "said continuous or pulsed amperometric detection provides an electrical potential . . . to provide separation and detection". It is unclear how a continuous or pulsed detection provides an electrical potential, as an electrical potential must
4				In Drawings, Figure 1 does not show element 112 described in the specification

Expanded Discussion/Commentary

Amperometric Detection Summary		
2		but does not explicitly teach amperometric detection. However, MATHIES teaches a microfluidic system with electrodes on opposite sides of a channel (Fig 4) used for amperometric detection of material passing through the channel (C6: 59 - C7: 11). It would have been obvious to modify the method of CHOW with the teachings of MATHIES because amperometric detection is highly sensitive (Mathies, background section). CHOW or MATHIES teaches all the limitations of the dependent claims or the limitations recite intended use of the method.
3		be provided to achieve an amperometric detection in the first place. Claims 66 and 70 are rejected as being dependent upon claim 65.
DATE: 4/8/2010		JCB /Nam X Nguyen/ Supervisory Patent Examiner, Art Unit 1753